

MAY 05 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAY BRIAN MCCASTLE,

Defendant - Appellant.

No. 06-10586

D.C. No. CR-05-00034-LKK

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Lawrence K. Karlton, District Judge, Presiding

Submitted April 22, 2008^{**}

Before: GRABER, FISHER, and BERZON, Circuit Judges.

Jay Brian McCastle appeals from his guilty-plea conviction and 100-month sentence for distribution of at least five grams of cocaine base, in violation of

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

21 U.S.C. § 841(a)(1). Pursuant to *Anders v. California*, 386 U.S. 738 (1967), McCastle's counsel has filed a brief stating there are no grounds for relief, along with a motion to withdraw as counsel of record. We have provided the appellant the opportunity to file a pro se supplemental brief. No pro se supplemental brief or answering brief has been filed.

We have conducted an independent review of the record pursuant to *Penson v. Ohio*, 488 U.S. 75, 80-81 (1988). We dismiss the appeal in light of the valid appeal waiver. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000).

Counsel's motion to withdraw is **GRANTED**.

DISMISSED.